



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

**MINUTES
MAUI/LANAI ISLAND BURIAL COUNCIL MEETING**

**DATE: THURSDAY, JANUARY 26, 2006
TIME: 9:00 A.M.
PLACE: COUNTY OF MAUI
PLANNING DEPARTMENT
KAULANA PAKUI BUILDING 1ST FLOOR
250 S. HIGH STREET
WAILUKU, HI 96793**

ATTENDANCE:

Members:

Charles Maxwell, Chair
Dana Naone Hall, Vice-Chair
Leslie Kuloloio
Kema Kanakaole
Keeaumoku Kapu
William Frampton
Edward Kaahui
Scott Fisher
Pua Paoa

Absent:

Mei Lee Wong (excused)

Staff:

Kawika Farm, Clerk Stenographer II
Vince Kanemoto, Deputy Attorney General
Melissa Kirkendall, Maui Archaeologist
Melanie Chinen, Administrator

Guest:

Valerie Monson	Caroline Peters Belson
Mike Dega	Kekai Kapu
Kapali Keahi	Uilani Kapu
Davey Susuki	William Fortini

I. OPENING REMARKS

Maui/Lanai Islands Burial Council (MLIBC) Chair, Charles Maxwell calls the meeting to order at 9:15 a.m. Maxwell addressed Melanie Chinen the State Historic Preservation Division (SHPD) Administrator, and asked that in the future if Chinen could let the

council know ahead of time of her plans to attend meetings. Maxwell said the council would like the opportunity to discuss any proposals for the legislative session, SHPD's standpoint on any proposals for the legislature and policies within SHPD. Maxwell called on Keeaumoku Kapu to give the *pule wehe*. Maxwell opened the meeting to anyone who wanted to give testimony on any of the items on the agenda.

Caroline Peters Belson introduced herself and said she would give testimony on item C under Business of the agenda. Belson said she was a lineal descendant of Isaac Davis through Isaac Davis's son, George Davis. Belson said the burial treatment plan (BTP) was for the Kale Davis gravesite. Belson said Kale Davis is the sister of her great-great-great-grandfather. Belson said page 6 of the report conducted by SCS (Scientific Consultant Services) shows her genealogy. Belson said she provided genealogical information to SCS that had been passed down through her family. Belson said she had been in consultation with SCS and Kumalani Chapel who was in negotiation to purchase the property that the burial was on. Belson said she had spoken with her family and the general consensus was to leave the gravesite untouched. Belson said she and her family would like the gravesite to be protected and have the owner of the property care for the burial. Belson said she had spoken with members of the Kumalani Chapel who indicated the willingness to work out buffers and other protective measures for the burial. Belson said the report by SCS reflected the information she provided. Hall asked Belson if she was in agreement with the preservation proposals within the BTP by SCS. Belson said she was.

II. BUSINESS

A. BURIAL TREATMENT PLAN FOR SITES 50-50-17-5627 & -5628, IN HAOU AHUPUAA, HANA DISTRICT, ISLAND OF MAUI, TMK: 1-5-004:005

Determination: Determination on a Request to Preserve Burial Sites in Place.

Recommendation: Recommendation on Burial Treatment Plan.

Mike Dega of SCS introduced himself and said the BTP presented was written by former SCS Archaeologist, Christopher Monahan. Dega said at previous IBC (Islands Burial Council) meetings the council had expressed particular concerns and suggested changes to the BTP. Dega said the changes were incorporated into the BTP. Hall read the first paragraph on page 19 of the BTP and asked Dega if the Kupau family was in agreement with preserving the two possible burials in place to which Dega said the family was. Hall wanted to note that although the Kupau family never came forward to be recognized as lineal or cultural descendants to the burials discussed within the BTP, she pointed out that Kema Kanakaole the Hana representative for the council knew the Kupau family very well and their genealogical ties to the area. Hall asked if the landowner was requesting preservation in place to which Dega concurred.

Maxwell asked if access rights and site visitation issues had been worked out with the landowner. Dega said those issues had not been worked out but assured the council that it would be.

Hall moved and Kaahui seconded, "that the Maui/Lanai Islands Burial Council finds that site 50-50-17-5627 and -5628 are located in an area within a context of

historic properties and that oral informant testimony indicates that these burials sites are located in an area with a concentration of burials and that the landowner has requested preservation in place. The council also finds that the Kupau family who lives in the immediate area and feels they have genealogical ties to the burials have also requested preservation in place. On these bases, the Maui/Lanai Islands Burial Council determines that sites 50-50-17-5627 and -5628 in Haou Ahupuaa, Hana, TMK: 1-5-004:005 shall be preserved in place.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

(Leslie Kuloloio arrives at 9:25 a.m.)

Hall asked if there were any unresolved issues relating to provisions for access that needed to be discussed. Dega was unsure on exactly where the issue for access stood. Hall wanted to go over each bullet point on page 23 of the BTP. Dega read the first bullet point on page 23 as follows, “This Burial Treatment Plan (BTP) shall be recorded in the State of Hawaii Bureau of Conveyances in the form of a written instrument which is attached to and becomes binding upon the subject property; specifically identified as TMK: (2) 1-5-004:005. This BTP shall be noted as an encumbrance (‘exception’) on the deed for the subject property. The BTP shall be recorded within 60 days of receiving written approval of this BTP from staff of the SHPD, in consultation with the MLIBC. A copy of the recorded document shall be provided to both the DLNR/SHPD Burial Sites Program as well as to the MLIBC.”

Dega read the second bullet point as follows, “The rectangular permanent buffer zone shall be preserved in the form of an easement which shall be listed and described on the property’s deed. The boundaries of said easement area shall be identified by a licensed surveyor using the metes and bounds description. This easement shall be recorded in the State of Hawaii Bureau of Conveyances so as to ensure that it is attached to and binding upon the deed of the property.” Hall said the council had been trying to get explicit language (as mentioned in the first and second bullet points) placed in BTPs and asked the Deputy Attorney General, Vince Kanemoto if the language used was sufficient.

Kanemoto asked to move the meeting into executive session for the purpose of advising the council on specific duties and obligations, relative to the explicit language used for recordation in BTPs.

Hall moved and Frampton seconded, “that the Maui/Lanai Islands Burial Council go into executive session for the reason previously stated by Kanemoto and in order to discuss certain elements of the subject burial treatment plan with regards to legal issues at 9:33 a.m.”

VOTE: ALL IN FAVOR. The motion carried unanimously. (1/26/06 E.S.)

(Kema Kanakaole arrives at 9:35 a.m.)

(Pua Paoa and Melissa Kirkendall arrive at 9:37 a.m.)

Hall moved and Kuloloio seconded, “that the council go out of executive session and reopen the public meeting at 9:40 a.m.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

Hall asked Dega to continue reading the bullet points from page 23 of the BTP. Dega read the third bullet point as follows, “If at any time in the future, the current landowner transfers and/or sells the subject property, the landowner shall disclose this BTP to any and/or all future Owners of the subject property.” Hall did not see any problem with the third bullet point.

Dega read the fourth bullet point as follows, “Cultural and Lineal descendants, to be determined by the SHPD-Burial Sites Program in conjunction with the MLIBC, shall be allowed access rights to the site for cultural purposes. A list of the names and contact information of the Cultural and Lineal descendants shall be provided to the landowner by the SHPD-Burial Sites Program. Access to the site by the landowner will be for landscape maintenance purposes, on an as needed basis. Prior to entry of the site, Cultural and Lineal descendants are to contact the landowner to confirm dates and times of visitation.” Hall said to include the word “and” in between the words landscape and maintenance of the third sentence. Hall asked Chinen if a different reference to the burial sites program was needed. Chinen said she wanted to correct a misconception that the Burial Sites Program had been abolished. Chinen said that SHPD did have several programs within the Cultural and History Branch which included the burials program and the Cultural Heritage Program and because of this, she thought the fourth bullet point was fine as written. Hall said the fourth bullet point needed to be revised so that the determination of recognizing cultural and lineal descendants would rest with the MLIBC.

Kanakaole wanted to know if he had to recuse himself from participating in further discussions on the current agenda item because Kanakaole’s wife’s family had a key interest in the BTP. Kanemoto did not see any specific citation that would call for Kanakaole to recuse himself from participating with discussing the current agenda item, but did mention Kanakaole could recuse himself voluntarily if he wanted to. Given that Kanakaole was the Hana representative for the burial council and the particular issue dealt with cultural and lineal descendants, Hall thought the knowledge Kanakaole could share was important and did not see a problem with his participation in discussions. The language in the fourth bullet point was important because it alerted any interested parties that there was a formal process to be recognized by the MLIBC as a cultural or lineal descendant.

Dega wanted specifics on how a person would be recognized by the council as a lineal descendant. Hall said the SHPD had an application to apply for lineal or cultural descent and the claimant would also need to submit any supporting documents, specifically genealogical documents with the application that would then be reviewed by the division. Hall said after the review process SHPD would submit a formal recommendation to the council on the validity of the descent claim.

Hall wanted to know if the Kupau family was interested in preserving the possible burial sites. Kanakaole's understanding was that the family was interested in preservation of the possible burial sites and said he would speak with the family about submitting the necessary paperwork to be recognized as lineal descendants.

Hall wanted specific language included in the fourth bullet point that would state the minimum amount of time/days a descendant would need to notify the landowner prior to a site visit. Dega asked if there was a precedence the council would prefer. It was decided by Dega and the council that alerting the landowner 48 hours prior to a site visit would be sufficient. Hall wanted the specific language to read, "Cultural and lineal descendants are to contact the landowner or the landowner's representative 48 hours ahead of the requested visitation."

Dega read the fifth bullet point as follows, "There shall be no amendments, changes, and/or revisions to this BTP unless otherwise authorized by the SHPD, in consultation with the MLIBC." Kuloloio did not think the fifth bullet point needed to be deleted. Hall's only concern was she did not want to see the subject BTP come before the council in the future with a request for relocation. Kuloloio wanted to know what would happen if the property was sold in the future and the new landowner requested relocation. Because the possible burials were previously identified, Kanemoto said jurisdiction would remain with the council in rendering the final determination on relocation or preservation in place should any request be made by a new landowner in the future. Fisher wanted to know if recognized descendants would have a say pertaining to the possible burials given the easement that ran with the property. Kanemoto said recognized descendants would have certain legal standing but the ultimate decision in determining relocation or preservation in place would remain with the council. Kuloloio was comfortable with leaving the fifth bullet point as written.

Hall moved and Fisher seconded, "that the Maui/Lanai Islands Burial Council recommends approval of the Burial Treatment Plan for sites 50-50-17-5627 and - 5628 in Hana, Haou Ahupuaa, Hana District, Island of Maui, TMK: (2)-1-5-004:005 with the revisions as discussed at the meeting incorporated into the Burial Treatment Plan."

VOTE: ALL IN FAVOR. The motion carried unanimously.

B. RETURN OF HUMAN SKELETAL REMAINS TAKEN FROM KAA NAPALI BURIAL SITE, LAHAINA DISTRICT, ISLAND OF MAUI

Information / Determination/ Recommendation: Council determination to recognize lineal and/or cultural descendants. Recommendation on the Proposed Reinterment of the Cranium of an Ancestral Native Hawaiian.

A memorandum dated January 23, 2006 to the members of the Maui/Lanai Islands Burial Council, from Sunny Greer the Cultural Programs Director of the History & Culture Branch within the State Historic Preservation Division on the subject matter of a *cultural descent claim to human skeletal remains taken from the Kaanapali burial site, also known as the Ebay iwi poo, Lahaina District, Island of Maui* was read by Melanie Chinen. The memorandum concerned a claim by William D. K. Correa who sought to

be recognized as a cultural descendant. Correa submitted supporting documents of his family's genealogy. After reviewing the documents submitted by Correa and upon the recommendation of Lenneth Lorenzo a contracted genealogist, the department recommended cultural recognition for William D. K. Correa to the human skeletal remains taken from Kaanapali burial site.

Edward Kaahui asked who the great, great-grandfather of William D. K. Correa was. The name of the great, great-grandfather was known, but Chinen said SHPD was hesitant about disclosing genealogical information in a public meeting. Kanemoto suggested moving the meeting into executive session in order to discuss Correa's genealogical information. Hall said in the past the council was given a genealogical packet to review whenever a claimant applied to be recognized as a lineal or cultural descendant. Chinen said recent changes were made to protect the confidentiality of the claimant's genealogy and that information could not be publicly disclosed without the claimant's written consent. Hall said the council was at a great disadvantage because they did not have the relevant information to assess the validity of Correa's claim to be recognized as a cultural descendant. Hall felt the council needed all the available information of anyone applying to be recognized as a cultural or lineal descendant in order for the council to make the best and proper decision.

Kapu asked if public notice to search for descendants of the *poo* was ever posted. Chinen's answer to Kapu's question was no. Chinen explained that an individual had come forward, followed the proper procedures, submitted the necessary documents including genealogical records and was deemed to be a cultural descendant. Chinen said that if the council wanted to know more details about the claimant's genealogy, suggested that it would be better for the council to go into executive session because she did not feel comfortable disclosing the claimant's genealogical information in a public meeting. Kapu wanted to know why public notification was not published.

Hall said an issue that occurred in the past involved the same particular individuals claiming to be cultural descendants to burials identified at different areas on Maui. Hall said the council felt individuals claiming cultural descent needed to have some knowledge on the part of the individual that connected the claimant to the actual area in which the burial was located. Hall said without a connection to where a burial was located, could lead to individuals from off island that may have a cultural connection to a district on Maui but not necessarily a connection to where the burial was located wanting to make recommendations. Hall said a lineal descendant knows the individual involved and can prove a direct lineal descent. Hall felt it was important for the council to scrutinize cultural claims because in a sense every Hawaiian is a cultural descendant. Maxwell asked if the particular claim was for cultural or lineal recognition. Chinen said the claim was for cultural recognition based on Correa's great, great-grandfather being from Lahaina. Maxwell thought if Correa was claiming to be a lineal descendant, then he agreed with Chinen that genealogical information could not be disclosed in a public meeting. Maxwell felt that because Correa was claiming to be a cultural descendant, he did not see a problem with disclosing information pertaining to Correa's genealogy. Chinen said written consent was still needed to disclose a person's genealogical information in a public meeting regardless if the claimant was seeking cultural or lineal recognition. Maxwell wanted to be sure SHPD did not

recognize Correa as a cultural descendant before the council had a chance to assess Correa's genealogical ties to Lahaina and the *poo*. Chinen said no formal recognition for Correa had been granted. Chinen explained that SHPD was simply recommending to the MLIBC that William Correa be recognized as a cultural descendant. Kanemoto said the burial council had the complete and sole jurisdiction to recognize cultural and/or lineal descendants. Kanemoto said the department by law could only make recommendations to the council.

Kuloloio felt uncomfortable with the wording in the subject heading of the January 23, 2006 memorandum, specifically with the phrase "cultural decent claim to human skeletal remains," because while a person could prove to be a cultural descendant to an area, Kuloloio did not think the same person could prove to be a cultural descendant to the burial in a particular area.

Uilani Kapu thought all *iwi* found needed to go through the process of public notification. U. Kapu felt it was wrong that there had not been any public notification in the newspaper and requested a descendant application for herself. U. Kapu thought it was wrong if one person was recognized as a cultural decent of the Ebay *poo*.

Bill Frampton wanted to know how and why William D. K. Correa was the only person to have submitted the descendant application. Chinen said Correa apparently had knowledge about the *poo* and on his own approached staff of SHPD for a descendant application. Chinen acknowledged that there may be others in Lahaina who would qualify to be recognized as a cultural descendant. Chinen said SHPD had tried to be as inclusive as possible in notifying the appropriate parties of the *iwi*'s return and reburial. Chinen requested a recommendation be made by the MLIBC to SHPD after hearing from those in the audience who may have been present to testify on the particular agenda item and other interested parties who may want to have an input with the descendant recognition process. Hall asked if Correa resided on Oahu. Chinen said she believed Oahu was where Correa resided. Hall asked if Correa had indicated any particular request regarding the reburial to the division. Chinen said a meeting was held on Oahu (January 25, 2006) on the particular agenda item which Correa did not attend. Presently Chinen was unaware of any request that may have been made by Correa. Hall asked if the burial treatment plan for the Ebay *poo* would be made available to Correa for comments. Chinen said the BTP would be made available to the landowner and the burial council.

Maxwell felt Correa should appear before the council for verification of his descendant claim especially since it was the burial council that would make the final determination whether or not to recognize Correa as a cultural descendant. Chinen said the division could notify Correa about possibly attending an IBC meeting, but could not require him to do so. Given the current circumstances, Frampton asked if SHPD would provide any public notification to seek out possible descendants to the cranial. Hall said no specific provision existed to require newspaper publication. Hall said newspaper publication was only required for burials that were found in an archaeological inventory survey or that were previously identified.

Kapu wanted to know if and how NAGPRA (Native American Graves Protection Repatriation Act) would affect the current agenda item. Chinen said the agenda item was not subject to NAGPRA. Hall said the agenda item was not subject to NAGPRA because the burial was not found in a federal institution.

Kuloloio reiterated his feelings on the subject content of the January 23, 2006 memorandum. Kuloloio strongly expressed his desire to review the documents submitted by the claimant wanting to be recognized as a cultural descendant.

Kekai Kapu said he was a lineal descendant of the Lahaina District and was concerned about the single descendant claim submitted to SHPD. K. Kapu said he had rights to the *iwi* and that he along with others from Lahaina were cultural descendants. Hall thought the reason why the Ebay *poo* raised a lot of concerns was because there were thousands of people who could claim cultural decent. Hall thought the discomfort expressed was largely attributed to the elevation and isolation of a single individual as having a particular claim when there were others with an equal or even greater direct claim to be recognized as a cultural descendant. In past situations, Hall said the council had required individuals who sought to be recognized as a cultural descendant to try and focus their descent on the area from which the burial was located rather than proving cultural descent to a district. Chinen said when reviewing lineal or cultural descent claims, the division refers to how cultural descendant is defined as written in the Hawaii Administrative Rules (HAR). Chinen said she understood the issues Hall raised and suggested that SHPD and the Burial Councils may need to discuss whether the rules needed to be amended. Maxwell wanted to know what SHPD's recommendation was. Chinen said the claimant currently met the guidelines for cultural recognition stated in the administrative rules and as a result, SHPD was recommending to the MLIBC that William D. K. Correa be recognized as a cultural descendant.

Maxwell wanted to know if any provision prohibited the council from publicly disclosing information on an individual who had been recognized as a cultural descendant. Chinen responded no to Maxwell's question. Chinen said she was glad that people from the audience expressed their *mana*o and encouraged them to submit the necessary documents in order to be recognized as a cultural descendant. Maxwell felt that if the claimant did not attend MLIBC meetings which included the Ebay *poo* as an agenda item, couldn't see the council making a determination in favor of the claimant.

Kapu wanted to review the history of the agenda item being discussed and said when the *poo* was discovered on Ebay, Kapu felt it was a discriminatory act towards Native Hawaiians. Kapu said the necessary steps were taken to ensure the return of the human skeletal remains and everyone was alright because "the *iwi kupuna* came home." At previous meetings, Kapu said the council had focused on finding a reinterment area for the *iwi* and consultation had started with Whaler's Village. Kapu thought up until that point, everything was alright because the council was trying to honor the *iwi kupuna* by finding the cranium a final resting place. Kapu felt the recommendation by the department to the MLIBC to recognize William D. K. Correa as a cultural descendant was a broad issue. Kapu said he was fine with having the *poo* brought home to be reinterred in a final resting place. Kapu was under the impression that after the reinterment and everything was done *pono*, everyone would become the

caretaker and curator of the preservation site. Kapu was uncomfortable with the council being asked to recognize a single individual as a cultural descendant.

Chinen said the department is required to make a recommendation in favor or against all claimants who sought cultural or lineal decent recognition. Chinen said the department's recommendation pertained solely for the claimant to be recognized as a cultural descendant and in no way did the department's recommendation pertain to a claim for the *iwi poo*. Maxwell said the council understood the regulations and recognition process. Maxwell said the council wanted the department to understand a lot of interested parties, especially people from Lahaina wanted to know how and who were William Correa's genealogical ties to the area. Frampton said he did not feel comfortable with voting on a determination to recognize a single individual as a cultural descendant without opening the process to all interested in the matter of the Ebay *poo*. Maxwell said he had dreams about the *iwi poo* and wanted to place the *poo* to rest as quickly as possible.

Kapu wanted to know if the agenda item being discussed could be deferred until such time when information pertaining to whether or not there were other lineal or cultural descendants to the *iwi poo*. Hall felt reinterment of the *iwi poo* should continue as planned. Hall thought the council should defer making a determination on recognizing the claimant as a cultural descendant until the claimant could prove a cultural connection to where the *iwi poo* was found. Hall said Jerry Hasson [who originally removed the *poo* and placed the *poo* on Ebay for sale] identified the exact spot on the ground at Whaler's Village where the *poo* came from.

Kapu wanted to know what the extent of a lineal or cultural descendant's input was. Chinen said recognized descendants would be consulted with and their input would be considered by the division, but that recognized descendants had no power to make any type of determination. Hall felt it was really important for cultural descendants to prove a direct connection to where a burial was from rather than just the district where a burial was located. Whenever burials are found, Kuloloio felt it was important to respect the *mana* of the council's particular district representative. Kuloloio said it was important to understand the difference between being a cultural descendant to a district and being a cultural descendant to remains found within a district. Kuloloio questioned the validity of the *mookuauhau* that was contracted to Lenneth Lorenzo. Kuloloio felt it was important the council continue with the reinterment process and put the *iwi poo* to rest.

Fisher said it was hard for him to make a determination on recognizing a cultural descendant without having more information about the claimant. Fisher said without the necessary transparency to access who the claimant was sort of turned the council into a rubber stamp organization. For future situations, Fisher suggested SHPD provide the council with pre-approved permission to disclose and discuss information pertaining to a claimant seeking to be recognized as a lineal or cultural descendant publicly. Hall said if a claimant refused to disclose genealogical information publicly she asked that the council be notified ahead of time so the matter could be addressed in executive session. Hall felt the council should have direct genealogical information sent to them by the division under confidentiality terms if required by the claimant so a well informed determination could be made.

There was some confusion about what the council was being asked to do on the particular agenda item. Chinen said an amended agenda was mailed to the council. To simplify the situation, Maxwell read the amended agenda explaining what was being asked of the council, "Council determination to recognize lineal and/or cultural descendants. Recommendation of the proposed reinterment of the cranial of an ancestral native Hawaiian." Hall wanted to know if the council was in agreement to defer recognition of the cultural decent claim until the claimant was able to show a direct cultural connection to where the *iwi poo* was found.

The Chair called a recess at 10:45 a.m. The Chair called the meeting back to order at 10:49 a.m.

Hall asked if there was further information pertaining to the claimant's connection to the specific area in which the *poo* was found. Chinen said she did not have the claimant's record with her and could only provide the council with the name of the claimant's grandfather.

Hall moved and Kapu seconded, "that the Maui/Lanai Islands Burial Council defers a decision on a cultural descendant claim of William D. K. Correa at this time and the council requests further that information be submitted with regards to William D. K. Correa's cultural connection to the district and the specific site from which the Ebay poo originated."

VOTE: ALL IN FAVOR. The motion carried unanimously.

Chinen said she met with Maxwell and Hall at Whalers Village on Monday, January 23, 2006 to view two alternative reinterment sites. Chinen circulated a map and photos of the two alternative reinterment sites. Chinen said SHPD, the Chair and Vice-Chair of the MLIBC all favored the second of the two sites proposed for reinterment. Chinen said a meeting was held on Oahu on January 25 for those interested in the particular agenda item but were unable to travel to Maui. Chinen said only Hui Malama I Na Kupuna O Hawaii Nei represented by Eddie Halealoha Ayau was at the January 25 meeting on Oahu. Chinen said Whaler's Village was represented at the January 25 meeting by their attorney, Tim Lui-Kwan. Chinen said Ayau recommended using a bottomless vault to protect the *iwi poo* within the reinterment pit. Chinen said Ayau did say Hui Malama would defer to what the MLIBC recommended. In regards to documenting the site, Chinen said it was collectively agreed by those at the January 25 meeting that at some point a survey documenting the metes and bounds description of the preserved area would need to be conducted.

Chinen said at the January 23 meeting 10 foot buffers around the 4 foot wide by 4 foot long reinterment pit area proposed. Chinen said the manager of Whaler's Village would take the proposed buffers into consideration but needed to obtain approval for the buffers at a higher level. At the January 25 meeting, Chinen said Lui-Kwan disclosed that Whalers Village did not favor the proposed 10 foot buffers and preferred to have just the 4 foot wide by 4 foot long reinterment area. Chinen said Lui-Kwan wanted to begin working on easement issues before the next Land Board meeting on February 10,

2006. Chinen said SHPD and the council needed to have the necessary language pertaining to easement drafted for Whaler's Village if reinterment is to occur in February. Chinen said if the specific language pertaining to easement was not drafted in time for the February 10 Land Board meeting, then the issue would be addressed at the February 24 Land Board meeting. Chinen said the Planning Department needed to be consulted to see if there were any issues needing to be dealt with given the reinterment site was proposed in the Kaanapali setback area.

Chinen said several issues still needed to be worked out. The first issue was agreeing on a proposed reinterment site and whether or not the council wanted a buffer to be part of the burial treatment plan. Chinen said a drainage line coming from the roof of a building was present in one of the reinterment areas. Chinen said Whaler's Village was open to relocating the drainage pipe. The second issue dealt with what specific protocols and landscaping would occur and should be included within the BTP. Chinen said a major issue revolved around the possibility of having cultural and lineal descendants and what type of access rights would be allowed. Chinen said the council should consider recommending broader access for native Hawaiians.

Maxwell wanted to know if Chinen informed Ayau that Hall suggested use of a bottomless vault for essential reasons such as allowing the *iwi* to have contact with the soil. Chinen said she expressed the desire to possibly use a *lauhala* basket instead of a bottomless vault to Ayau. Chinen said Ayau preferred the vault as additional protection for the *iwi* against wave action or other things that could damage the *poo*. Maxwell wanted to know who was against having a buffer. Chinen said Lui-Kwan did not favor having a buffer. Maxwell wanted to know if a smaller buffer area was proposed to Lui-Kwan to which Chinen answered no.

Hall said the area that was collectively agreed as inappropriate for a reinterment site was *makai* of the main pedestrian walkway at Kaanapali. Hall said the area *makai* of the walkway was much more prone to erosion and that was the basis for choosing the proposed reinterment site *mauka* of the pedestrian walkway. Hall said the reinterment area that was chosen had the Sheraton to the north and the Westin to the south. Hall said both the Sheraton and the Westin had problems with erosion in the past. Hall said the second area was near an adjacent property line and currently had a lot of vegetation, some of which needed to be removed in order to construct a rock platform as a surface marker. Hall said the reinterment cost would be paid through the fines levied against Jerry Hasson. Hall asked how much money was left from the fines against Hasson. Chinen said \$6,400.00 was left. Hall said the \$6,400 dollars should be more than adequate to cover the cost of reinterment which included construction of a rock platform and a bronze plaque identifying the site.

Hall said Campbell Estate sold Whaler's Village to General Growth Properties Inc. in early November [2005]. Hall asked if Lui-Kwan, the attorney who represented the new landowners did not want a buffer. Chinen said Lui-Kwan preferred not to have a buffer area. Hall said it was important to have a buffer to prevent construction from occurring within inches of the rock platform and to allow some breathing space for the preservation area. Hall said at the January 23 meeting she pointed out the drainage pipe which ran just on the corner of where the reinterment site would be. Hall said a

buffer would serve to relocate the drainage pipe and other construction outside of the preservation area to better protect the site. Hall said buffers help to prevent utility easements, drainage and sewage lines from damaging the burial. Frampton said there was too much risk involved with potential damage to the preservation site by not having a buffer and that a 10 foot buffer around the site was not an unreasonable request. Maxwell said the north side of the reinterment site was near the wall of an adjacent property line. Maxwell felt the reinterment site needed buffers on the *makua*, *makai* and south sides to better protect the burial.

Hall said a point she expressed to the new and outgoing general managers of Whaler's Village was that the Ebay *iwi poo* represented many native Hawaiian burials that were excavated from the shoreline area and never accorded the respect to be preserved in place. Hall said the *iwi poo* essentially represented all the other burials that were lost and strongly disagreed with the landowner's position of not favoring 10 foot buffers for the 4 foot long by 4 foot wide reinterment site. Hall said a matter in question dealt with the fact that the particular agenda item arose before the new landowner took over Whaler's Village. Hall said Whaler's Village exists because the burials were removed and the Ebay *iwi poo* was an opportunity for the new landowner to make a small concession and correct a small element in the history of the area.

Maxwell asked if he and the Vice-Chair could be involved in discussions with Lui-Kwan and the landowner on the matter of having a buffer. Chinen said she did not see a problem with the MLIBC Chair and Vice-Chair participating in discussions with Lui-Kwan and suggested the council make a recommendation to the effect of Maxwell's request. Hall felt if the council allowed the landowner to not have a buffer area would go against the precedence established for every other burial site preserved and would be the only known site to not have a buffer zone.

Hall asked the other council members if they were satisfied with where the reinterment site would be. Kaahui was displeased with the reinterment area because he felt Kaanapali was big enough an area with lots of other places that were larger, nicer and more appropriate for the *iwi poo* given the significance the *poo* represented. Kapu wanted to know if a tree located near the reinterment area would be removed. No one knew the answer to Kapu's question. Maxwell questioned the proposed reinterment location in the photographs circulated by Chinen. Chinen acknowledged the photographs did not give justification and an accurate representation of the site. Chinen said when she initially viewed the photographs, she also had similar concerns expressed by the council until she went and visited the site. Kuloloio was uncomfortable with the reinterment location because he felt the *iwi* was being pushed in a hidden area. Kuloloio felt the *iwi* should be given greater preference and be located in a larger, nicer area and be incorporated into a cultural educational display. Maxwell said Hasson claimed the *iwi* came from near the area where the two proposed reinterment sites were. Kapu thought the landowner needed to understand the history of what occurred and how the dynamics of the *iwi poo* came to be. Kapu said his feelings were the same as Kaahui. Frampton suggested the council request the landowner or representatives of the landowner to come before the council in order to better understand how important and symbolic the *iwi poo* is.

Kapu asked who the new landowner was. Hall said the new landowner was General Growth Properties Inc. Maxwell asked if Lui-Kwan would come before the council. Chinen said Lui-Kwan wanted to attend the burial council meeting but was unable to make it. Maxwell said it was important the landowners attend an IBC meeting so council members were given a chance to express some of their concerns and afforded the opportunity to hopefully have the landowners understand the perspective of the council. Maxwell thought it would be worthwhile to delay reinterment of the *iwi poo* by a little in order to ensure things were as *pono* as could be. Hall said the *iwi kupuna* had come from the sand dunes used to be in the area.

Hall moved and Fisher seconded, “that the Maui/Lanai Islands Burial Council recommends that the representative of General Growth Properties Inc. attend the February meeting of the council to discuss the reinterment for the *iwi poo* from Kaanapali.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

C. SITE 50-50-10-5636 IN KAPALUA, HONOKAHUA AHUPUAA, LAHAINA DISTRICT (FORMERLY KAA NAPALI), ISLAND OF MAUI, TMK: 4-2-004:037 AND A PORTION OF 4-2-004:24

Information / Recommendation: Discussion of Burial Site Identified During Archaeological Inventory Survey.

Mike Dega of SCS introduced himself and said he was just introducing the agenda item to the council and did not have anything formal to present. Dega said SCS had conducted an inventory survey on a 10 acre parcel in September of 2004. Dega said the project area had been visited by Maui archaeologist, Melissa Kirkendall twice. Dega said there was a known burial site prior to the inventory survey having been conducted. Dega said Caroline Belson a lineal descendant of the Davis *ohana* testified before the council at the start of today’s meeting. Dega said Belson was consulted prior to conducting the inventory survey. Dega assured the council no trenching or other disruptive testing methods had been conducted near the burial site. Dega said SCS documented the burial and a historic Portuguese oven found at the base of the slope, both of which would be preserved. Dega said after consultation with Belson, the consensus was to preserve the site in place, as is. Dega said the burial was enclosed by a metal fence and that the enclosed area totaled about 360 square feet. Dega said SCS was proposing to add 18 feet to one side of the burial site, 20 feet on another side, and 30 feet on the remaining two sides of the burial site to increase the buffer zone around the existing metal fence. Dega said the increase of the buffer zone would total around 960 square feet. Dega said Belson was planning on applying to be recognized as a lineal descendant. Dega said Belson had been very helpful in providing historical information of the area to SCS and that the BTP would have at least five pages devoted to Belson and her family’s genealogy and connection to the area.

Dega asked what the turnaround time on genealogical claims was. Chinen said it would take about a month for SHPD to provide a recommendation for Belson. Kaahui wanted to know specifically where the subject property was located. Dega said the parcel was a plateau area above (inaudible) beach. Hall said she Maxwell and Kuloloio had visited

the property in the past which was located in old pineapple fields. Dega said a burial treatment plan would be completed within a few weeks and he would provide the council with copies.

D. CASE UPDATES / OTHER INADVERTENT DISCOVERIES
Information / Recommendation:

Inadvertent Burial Discovery Identified at Hawaiian Cement Sand Mining Project, Wailuku Ahupuaa, Wailuku District, Island of Maui, and TMK: 3-8-07:101 portions.

Hall said Lisa Rotunno-Hazuka was unable to attend the meeting due to a family emergency and submitted written testimony in her absence. Maxwell read a memorandum dated January 25, 2006 addressed to the burial council on the subject of Feature 50, the inadvertent burial identified at Hawaiian Cement. Hall said she visited the burial site and to her knowledge, Feature 50 was the first burial located in this particular area.

Inadvertent Burial Discovery Identified at the Puunene Container Yard, Kahului Harbor, Wailuku Ahupuaa, Wailuku District, Island of Maui, TMK: 3-7-8: Por. 6 and 3-7-8: Parcel 4.

Kirkendall said the burial was discovered during monitoring and originally thought to be previously disturbed. Kirkendall said the burial was of an entire individual and determined to be in situ. Kirkendall said the burial was probably encountered during installation of the existing asphalt. Kirkendall said the cross section included a base course material overlaying a natural deposit. Kirkendall said the fill deposit was less thick where the burial was located beneath the asphalt. Kirkendall said the burial appeared to have been previously identified in the 1960's. Kirkendall said there used to be plantation camps in the area where the burial was found during the 1960's. Kirkendall said the total thickness from the base fill to the top of the asphalt was eight inches. Kirkendall said a layer of concrete was planned over the asphalt increasing the thickness from the base fill to the top of the concrete layer. Hall asked Kirkendall if she had the dimensions as to how much of an increase the thickness would be with the addition of a concrete layer. Kirkendall said she did not have the dimension with her, but thought the base fill to the top of the concrete layer would be increased from 8 inches to 22 inches. Kirkendall said the location of the burial posed a problem for construction because it was almost centered on the parcel. Kirkendall said a waterline was installed on the parcel for a fire hydrant in which no burials were encountered.

Hall asked how the burial was positioned. Kirkendall said the burial extended southeast. Kirkendall said she was told by Mike Dega in the 1900's there were campsites which were burnt down during the Bubonic plague epidemic. Kirkendall said camps were later rebuilt. Kirkendall said she was told by Hinano Rodrigues in the 1950's that he vaguely remembered crosses in the front yards of certain areas. Kirkendall said there were a few campsites of different ethnicities and identifying what ethnic camp used to exist where the burial was found needed to be determined. Maxwell said a family by the last name of Cummings used to live in the area. Kirkendall said the Cummings had been contacted.

Kuloloio asked if the burial was historical to which Kirkendall said it was. Kuloloio asked if the individual was buried in a coffin. Kirkendall said the individual was buried in a coffin and nails and some of the wood had been collected. Kuloloio wanted to know if there were any other known burial discoveries in the area. Kirkendall said the closest site she knew of was a cultural deposit located on the Burger King property. Kuloloio asked if the burial discovered at Kahului Harbor was the first to be identified in the area. Kirkendall said she believed the Kahului burial was the first to found in the area. Kuloloio suggested both Alexander & Baldwin and Matson should be contacted to possibly obtain maps of the area from when development of the harbor first started. Kuloloio hoped the maps would reveal more information about the burial. Kuloloio felt it was important to pay attention to the area where the burial was found because lots of development had been planned for the future. Maxwell agreed with Kuloloio and thought it was a good idea to pay attention to what was happening in terms of development in the area where the burial was found.

Kapu asked if public notification in the newspaper would be posted. Kirkendall said permission to extend the deadline from the property owner needed to be obtained. Maxwell also asked if there would be public notification. Kirkendall said no because the burial was an inadvertent discovery and only previously identified burials required public notification. Kapu suggested Sunny Waiohu be consulted because Waiohu was born in the area where the burial was discovered. Kuloloio suggested Viola Hanaïke should also be consulted because the Hanaïke ohana had ties to the Kahului area. Kuloloio said there were many families who may be able to provide useful information.

Status Update on Kaulahau Burial Site 50-50-05-1064, Hamakuapoko, Maui.

Maxwell read a memorandum dated January 25, 2006 addressed to the MLIBC members on the subject of the Kaulahau Burial Site 50-50-05-1064 which had been submitted by Lisa Rotunno-Hazuka. The memorandum asked for assistance from the MLIBC and SHPD to urge the mayor to provide funds to the County Parks Department for the continued maintenance and salvage of the Kaulahau Burial Site by Archaeological Services Hawaii (ASH), LLC.

Hall said the Kaulahau Burial Site was in an area subject to constant erosion and collapsing of the dune which causes burials to continuously erode out of the cliff face. Hall said Kaulahau was a fairly hazardous area to collect burials because a ladder needed to be leaned against the dune in order to reach the burials. Hall said worrying about the dune collapsing was another hazard and the limited time to screen collapsed sand when the tide is rising was another problem. Hall said the county had provided funding for several years for the salvage work provided by ASH.

Hall moved and Kanakaole seconded, “that the Maui/Lanai Islands Burial Council strongly recommends that the State Historic Preservation Division write a letter to the Maui County Parks and Recreation Department urging the Department to continue funding for the monitoring and salvage excavations at the Kaulahau Burial Site.

VOTE: ALL IN FAVOR. The motion carried unanimously.

III. ANNOUNCEMENTS

Hall asked if there were any legislative proposals that dealt with the burial councils or the burial sites programs. Chinen said no bills were being proposed for legislation from the division. Chinen said she was aware of bills that may be introduced to the legislature by a heritage caucus. Maxwell asked Chinen if she could attend the next MLIBC meeting because the council wanted to discuss what bills were being proposed for legislation, possible hires within SHPD and other staffing issues which may affect the burial council. Chinen said she would need to check her schedule to determine if she would be available. Chinen said she did not favor discussing personnel matters publicly. Hall said the council wanted to know the overall vision and direction SHPD was headed. Chinen said she was willing to provide a copy of the division's budget proposal that was submitted to the legislature. Chinen said the budget proposal did account for how many positions SHPD had and what positions SHPD was requesting. Maxwell said he was asking for the opportunity to speak with Chinen directly about matters pertaining to SHPD which may affect the council. Chinen said SHPD was not planning any legislative proposal and that any legislative proposals that may affect the council would be through other divisions and/or departments. Chinen said she did not currently know what bills were being proposed. Chinen said there were people in charge of tracking all bills that go to legislature and forwarding the bills to the divisions that may be impacted. Chinen said that SHPD receives a list of what bills may affect the division she would be willing to provide the council with a copy of the list of proposed bills. Hall asked the name of the council referred to earlier. Chinen said there was a Heritage Caucus that was considering five proposals. Chinen said she did not know all the details but that one proposal dealt with a tax incentive credit. Hall requested the MLIBC be informed of any proposals to the legislature that may affect burials, burial sites or the burial council. Chinen said SHPD would keep the council informed.

IV. ADJOURNMENT

Hall moved and the council seconded, "to adjourn the meeting at 11:50 a.m."

VOTE: ALL IN FAVOR. The motion carried unanimously.

Respectfully submitted,

Kawika Farm
Clerk Stenographer II
State Historic Preservation Division